

III. REMARKS

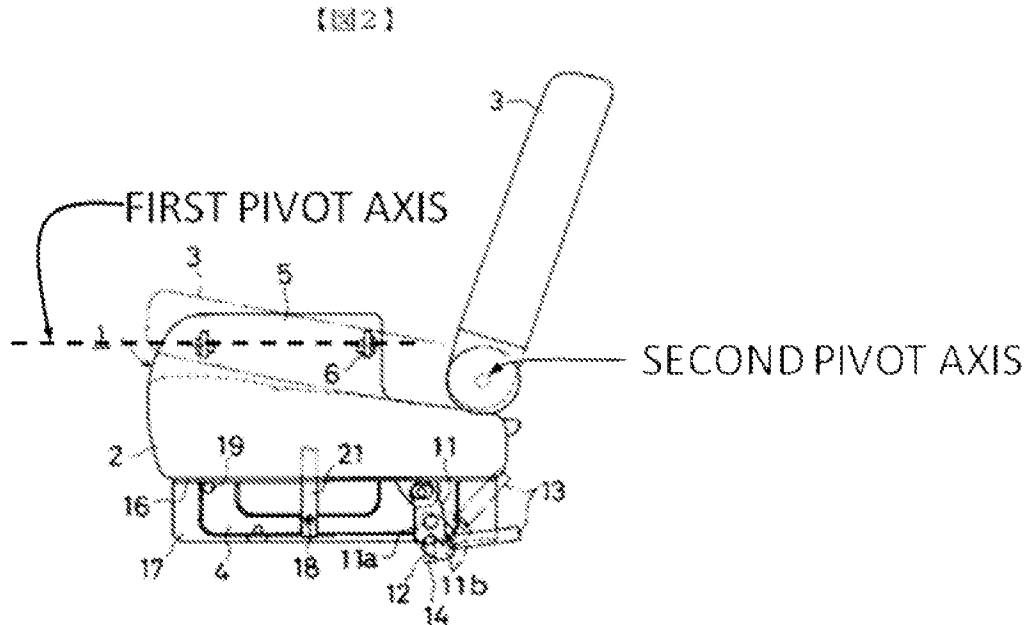
Claim Amendments

Claims 1 and 20 have been amended consistent with the amendments proposed by applicants and suggested by the examiner in the interview held June 8, 2010. Applicants submit that Claims 1-4, 6-15 and 20 as amended herein overcome the rejections asserted in the Office action mailed April 16, 2010. Applicants further submit that these amendments contain no new matter, the subject matter of the amendments being present in the originally-filed specification and drawings.

Claim Rejections – 35 U.S.C. § 103

Claims 1-3, 6-9, 12 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6,179,362 to Wisniewski et al. (“Wisniewski”) in view of JP Publication No. 406234337 to Kuroiwa et al. (“Kuroiwa”). To support an obviousness rejection, MPEP §2143.03 requires “all words of a claim to be considered” and MPEP § 2141.02 requires consideration of the “[claimed] invention and prior art as a whole.” Further, the Board of Patent Appeal and Interferences recently confirmed that a proper, post-KSR obviousness determination still requires the Office make “a searching comparison of the claimed invention – including all its limitations – with the teaching of the prior art.” *In re Wada and Murphy*, Appeal 2007-3733, citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) and *CFMT v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003). In sum, it remains well-settled law that an obviousness rejection requires at least a suggestion of *all* of the claim elements. Applicants have amended Claim 1 to recite a common and stationary anchor member. The anchor member stationarily houses a first and a second pivot axis, the second pivot axis being elevated with respect to the first pivot axis, the second pivot axis further being spaced apart from and parallel to the first pivot axis. A seat cushion is pivotable on the first pivot axis and a seatback is pivotable on the second pivot axis. In contrast, Wisniewski discloses a seat cushion 40 and a seatback 54 that are both pivotable about the same pivot axis, the pivot axis being defined by anchor member 66, 68, 74 (Fig. 2). Kuroiwa fails to overcome the shortcomings of Wisniewski to arrive at applicants’ claimed invention, instead teaching a seat cushion 2 that is pivotable about a first pivot axis defined by a pivot pin or shaft 7

that couples a non-stationary anchor member 5, 6 to a structural portion 9 of a vehicle, while a seatback 3 is pivotable about anchor member portion 5 on a second pivot axis that is orthogonal to the first pivot axis (see marked-up Fig. 2, below).



Applicants also respectfully point out that, if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification (*In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)). Applicants submit that modifying the seat of Wisniewski to include an enclosure in the manner proposed by the examiner on page 4 of the Office action would render the seat of Wisniewski unsatisfactory for its expressed purpose of providing a seat that occupies a minimal volume in the vehicle to maximize the cargo carrying capacity of the vehicle (see, e.g., Abstract).

For the foregoing reasons applicants submit that amended Claim 1 is patentable over Wisniewski and Kuroiwa, separately and in combination. Claims 2-3, 6-9 and 12 depend ultimately from independent Claim 1 and each add limitations that further distinguish the claimed invention from the prior art. As such, applicants submit that Claims 2-3, 6-9 and 12 are also allowable. Independent Claim 20 has been amended in a manner similar to Claim 1. Accordingly, applicants submit that Claim 20 is allowable for the same reasons as those presented above for Claim 1.

Claims 1, 2, 6-8, 12 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 3,279,850 to Saemann et al. ("Saemann") in view of Kuroiwa. Applicants have amended Claim 1 to recite the top portion of the seat cushion being pivotable to a position facially adjacent the seatback and the seatback being pivotable to a position facially adjacent the top portion of the seat cushion. In contrast, the seatback 52 of Saemann moves about an arc established by a shaft 46 such that the seatback cannot be moved to a position facially adjacent the top portion 38 of the seat cushion 27 (col. 3, lines 1-19; Figs. 1, 3). Likewise, the seat cushion 27 moves between an extended position generally perpendicular to seatback 52 (col. 3, lines 20-30; Fig. 1) or a stowed position behind the seatback (col. 3, lines 31-37; Fig. 3). The position of seat cushion 27 is limited to these extremes by its weight and cannot be moved to a position such that its top portion 38 is facially adjacent the seatback (col. 2, lines 40-48). Even if seat cushion 27 could be positionable at any point in its arc of travel It can be seen from observing Figs 1 and 3 that the pivot arc of seat cushion 27 and the pivot arc of seatback 52 are such that there is no position of the seat cushion and/or the seatback wherein the top portion 38 of the seat cushion is facially adjacent the seatback in the manner of applicants' Claim 1. Furthermore, as can be seen in Figs. 1 and 3, the second pivot axis of the seatback of Saemann is not elevated with respect to the first pivot axis of the seat cushion in the manner of applicants' amended Claim 1.

Kuroiwa fails to overcome the shortcomings of Saemann to arrive at applicants' claimed invention, instead teaching a seat cushion 2 that is pivotable about a first pivot axis defined by a pivot pin or shaft 7 that couples a non-stationary anchor member 5, 6 to a structural portion 9 of a vehicle, while a seatback 3 is pivotable about anchor member portion 5 on a second pivot axis that is orthogonal to the first pivot axis (see marked-up Fig. 2, above).

For the foregoing reasons applicants submit that amended Claim 1 is patentable over Saemann and Kuroiwa, separately and in combination. Claims 2, 6-8 and 12 depend ultimately from independent Claim 1 and each add limitations that further distinguish the claimed invention from the prior art. As such, applicants submit that Claims 2, 6-8 and 12 are also allowable. Independent Claim 20 has been amended in a manner similar to

Claim 1. Accordingly, applicants submit that Claim 20 is allowable for the same reasons as those presented above for Claim 1.

Claims 1-3, 6, 7, 12 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 2,418,787 to A.L. Nelson (“Nelson”) in view of Kuroiwa. Claim 1 has been amended to recite the seat cushion being independently pivotable about the anchor member with the seatback stationary and the seatback being independently pivotable about the anchor member with the seat cushion stationary. Contrary to the examiner’s assertion on page 9 of the present Office action, the seat cushion and seatback of Nelson are not pivotable independently of each other in the manner of applicants’ Claim 1. Instead, when seat C of Nelson is pivoted upwardly a set of links F and rods G, driven by the movement of the seat, urge the seatback E downwardly to a stowed position (col. 3, lines 2-19; Figs. 1, 2).

Claim 1 has also been amended to recite a common and stationary anchor member. The anchor member stationarily houses a first and a second pivot axis, the second pivot axis being elevated with respect to the first pivot axis, the second pivot axis further being spaced apart from and parallel to the first pivot axis. A seat cushion is pivotable on the first pivot axis and a seatback is pivotable on the second pivot axis. In contrast, Nelson discloses a seat support C and a seatback support E that are both pivotable about the same pivot axis C³ (col. 1, lines 43-49; col. 2, lines 4-7; Figs. 1-3). Kuroiwa fails to overcome the shortcomings of Nelson to arrive at applicants’ claimed invention, instead teaching a seat cushion 2 that is pivotable about a first pivot axis defined by a pivot pin or shaft 7 that couples a non-stationary anchor member 5, 6 to a structural portion 9 of a vehicle, while a seatback 3 is pivotable about anchor member portion 5 on a second pivot axis that is orthogonal to the first pivot axis (see marked-up Fig. 2, above).

For the foregoing reasons applicants submit that amended Claim 1 is patentable over Nelson and Kuroiwa, separately and in combination. Claims 2, 3, 6, 7 and 12 depend ultimately from independent Claim 1 and each add limitations that further distinguish the claimed invention from the prior art. As such, applicants submit that Claims 2, 3, 6, 7 and 12 are also allowable. Independent Claim 20 has been amended in a

manner similar to Claim 1. Accordingly, applicants submit that Claim 20 is allowable for the same reasons as those presented above for Claim 1.

Claims 4, 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nelson and Kuroiwa, further in view of U.S. Pat. No. 5,707,103 to Balk (“Balk”). Applicants submit that amended Claim 1 is patentable over the combination of Nelson and Kuroiwa for the reasons provided above. Balk, cited by the examiner with regard to a headrest and a second latch, fails to provide any additional teaching or suggestion that would render amended Claim 1 obvious. Claims 4, 8 and 9 are thus likewise allowable because these claims depend ultimately from amended Claim 1 and each add limitations that further distinguish the claimed invention from the prior art.

Claims 4, 10, 11 and 13-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wisniewski and Kuroiwa, further in view of U.S. Pat. No. 5,826,942 to Sutton et al. (“Sutton”). Applicants submit that amended Claim 1 is patentable over the combination of Wisniewski and Kuroiwa for the reasons provided above. Sutton, cited by the examiner with regard to a pivoting headrest and a third latch, fails to provide any additional teaching or suggestion that would render amended Claim 1 obvious. Claims 4, 10, 11 and 13-15 are thus likewise allowable because these claims depend ultimately from amended Claim 1 and each add limitations that further distinguish the claimed invention from the prior art.

Claims 4, 10, 11 and 13-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Saemann, Kuroiwa and Sutton. Applicants submit that amended Claim 1 is patentable over the combination of Saemann and Kuroiwa for the reasons provided above. Sutton, cited by the examiner with regard to a pivoting headrest and a third latch, fails to provide any additional teaching or suggestion that would render amended Claim 1 obvious. Claims 4, 10, 11 and 13-15 are thus likewise allowable because these claims depend ultimately from amended Claim 1 and each add limitations that further distinguish the claimed invention from the prior art.

Claims 10, 11 and 13-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Nelson, Balk and Sutton. Applicants submit that amended Claim 1 is patentable over the Nelson for the reasons provided above. Balk,

cited by the examiner as applied to claims 4, 8 and 9 above with regard to a headrest and a second latch, fails to provide any additional teaching or suggestion that would render amended Claim 1 obvious. Likewise, Sutton, cited by the examiner with regard to a pivoting headrest and a third latch, fails to provide any additional teaching or suggestion that would render amended Claim 1 obvious. Claims 10, 11 and 13-15 are thus also allowable because these claims depend ultimately from amended Claim 1 and each add limitations that further distinguish the claimed invention from the prior art.

Applicants have also reviewed U.S. Pat. No. 4,779,917 to Campbell et al. (“Campbell”) as suggested by the examiner in the interview of June 8, 2010. Applicants’ claimed invention, as amended herein, recites a common and stationary anchor member connected to a structural portion of a vehicle, the anchor member housing a first and a second pivot axis, the second pivot axis being elevated with respect to the first pivot axis, the second axis further being spaced apart from and parallel to the first axis. A seat cushion pivots about the first pivot axis, while a seatback pivots about the second pivot axis. In contrast, Campbell teaches a seat having first and second seat cushions 10, 12 and a control arm 28, all pivotable about the same pivot axis 14 (col. 3, lines 57-61; col. 4, lines 4-7; Fig. 1. Applicants therefore submit that the amended claims are patentably distinct from Campbell.

IV. CONCLUSION

For the reasons discussed above, applicants submit that amended Claims 1-4, 6-15 and 20 of the pending application are patentable over all the prior art of record. It is believed that the application is now in form for allowance and favorable action by the examiner is requested. The examiner is requested to contact applicants' representative at the telephone number below if any other issues remain.

Respectfully Submitted,

/Michael A. Forhan/

Michael A. Forhan, Reg. No. 46,706

Eley Law Firm Co.

Attorneys at Law

7870 Olentangy River Road

Suite 311

Columbus, Ohio 43235

Telephone (614) 825-3539

Facsimile (614) 825-9590

Email: mforhan@eyleylaw.com